

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**EDEN A GUERRA**  
Claimant

**HY-VEE INC**  
Employer

**APPEAL 15A-UI-08120-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/07/15**  
**Claimant: Appellant (4)**

Iowa Code § 96.5(1) – Voluntary Quitting/Requalification

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 15, 2015, (reference 05) unemployment insurance decision that denied benefits based upon the determination he failed to report to work for three days in a row and did not notify the employer of the reason. The parties were properly notified about the hearing. A telephone hearing was held on August 10, 2015. Claimant Eden Guerra participated on his own behalf. Employer Hy-Vee participated through Director of Human Resources Jamie Aulwes and was represented by Bruce Burgess of Corporate Cost Control, Inc. Employer's Exhibit 1 was received. Official notice was taken of the administrative record.

**ISSUES:**

Did claimant voluntarily leave the employment with good cause attributable to employer?

Has the claimant requalified for benefits since the separation from this employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as an order filler beginning October 17, 2014, and was separated from employment on March 15, 2015. The claimant did not call the employer or show up for his scheduled shifts on March 13, 14, or 15 of 2015. The employer has a policy stating that two consecutive days of no-call/no-show results in job abandonment. On March 16, 2015, the claimant called the employer and notified it that he had accepted another position and would not be returning to work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit his employment without good cause attributable to his employer but has since requalified for benefits.

Iowa Code § 96.5(1)g provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

The claimant's separation from this employer is disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The July 15, 2015, (reference 05) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily quit his employment without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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